

Texas Plastics, Inc. and United Food and Commercial Workers International Union, AFL-CIO, Local Union No. 171, Petitioner. Case 23-AC-44

August 13, 1982

DECISION ON REVIEW

On September 25, 1980, the Regional Director for Region 23 issued his Decision and Order Amending Certification of Representative in the above-entitled proceeding in which he amended Petitioner's certification, substituting United Food and Commercial Workers International Union, AFL-CIO, Local Union No. 171, for Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (herein Meat Cutters).

Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's decision on the grounds that the Regional Director erred in finding that Petitioner is a legal successor to Meat Cutters as neither the Employer's employees nor the Petitioner's members were permitted to vote on the merger of Meat Cutters and Retail Clerks International Union (herein Retail Clerks) to form the United Food and Commercial Workers International Union, AFL-CIO (herein UFCW).

By telegraphic order dated November 18, 1980, the National Labor Relations Board granted the Employer's request for review.

The Board has considered the entire record in this case with respect to the issue under review, and makes the following findings:

On December 2, 1963, Meat Cutters was certified in Case 23-RC-2148 as the collective-bargaining representative of the production and maintenance employees employed at the Employer's Elsa, Texas, facility. Subsequently, apparently following prior agreements, Meat Cutters Local No. 171 and the Employer entered into a collective-bargaining agreement on April 24, 1978, for the period effective February 4, 1978, through and including February 3, 1980.

On June 5 and 6, 1979, Meat Cutters and Retail Clerks held a special convention in Washington, D.C., attended by delegates of both unions for the purpose of effectuating a merger to form UFCW. According to the merger agreement, approved by the convention and effective June 7, 1979, the UFCW's executive board was to be comprised of both Internationals' vice presidents, secretary-treasurers, and presidents. The geographical divisions or districts of Meat Cutters were to remain unaltered, with any proposed change requiring unani-

mous agreement of the Meat Cutters representatives on the UFCW executive board. All standing committees of the International unions were to survive unless a counterpart existed, in which case the duplicative committees were to be consolidated. Local unions, including Local 171, automatically became charter members of UFCW, and were not required to merge with other locals. Additionally, the agreement provided that UFCW assumed all rights, property, and obligations of the two International unions, including the responsibility for administering all collective-bargaining agreements. Also pursuant to the agreement, all members of the Meat Cutters and Retail Clerks became members of the UFCW as of the date of their original membership in their respective unions.

Although permitted to send four delegates, Local 171's executive committee met on March 24, 1979, and voted not to send delegates to the special convention. Local 171's members did not vote on the proposed merger of the International unions but were notified of the merger in small shop meetings by Local 171's business agents.

Subsequent to the merger, Local 171 was notified that it would be receiving a new charter, reflecting UFCW as the International union. The same officers, staff, dues structure, operating bylaws, and geographical jurisdiction that existed prior to the merger were retained by Local 171 after the merger.

Based on the foregoing, the Regional Director found that the identity and continuity of the bargaining representative has been preserved subsequent to its change in name in June 1979, and granted the amendment of certification. We agree.

In so finding, we reject the Employer's contention that the change in name is improper because its employees, and Local 171's members, did not participate in or ratify the merger. The record amply demonstrates that there is continuity of representation. Thus, nothing but Local 171's designation—i.e., that it is chartered by UFCW rather than Meat Cutters—changed. Indeed, the same personnel who serviced Local 171's various shops continued doing so after the merger of the International unions, the jurisdiction of Local 171 remained the same after the merger, and the rights and privileges of the employees represented by Local 171 were unchanged by the merger. Moreover, Local 171 was given the opportunity to send delegates to the special convention, but its executive committee exercised its discretion to choose not to do so.¹ Additionally, we note that the em-

¹ Erby M. Rendon, Petitioner's financial secretary, testified that Petitioner chose not to send delegates because of financial considerations and not as an expression of dissent to the merger of the International unions.

ployees, by their membership, were bound to the terms and conditions of the Meat Cutters constitution, which expressly authorized the Meat Cutters International executive board to merge Meat Cutters with other International unions.² Pursuant to this constitutional authority, the Meat Cutters International executive board, through the merger agreement with Retail Clerks, bound its members and locals, including Local 171, to become members and locals of the newly formed UFCW.³

² Constitution of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, as amended (1976), art. VII, sec. 2(d).

³ Merger Agreement of Retail Clerks and Meat Cutters, sec. 11, 13.

Therefore, as the merger of the two International unions did not affect representation at the local level, and no improprieties by Meat Cutters were established, we hereby affirm the Regional Director's amendment of the certification.⁴ This amendment is not, however, to be considered a new certification or a recertification.

⁴ *Warehouse Groceries Management, Inc.*, 254 NLRB 252, 256 (1981); *St. Mary's Home, Inc. t/a St. Mary's Infant Home*, 255 NLRB 1139, 1140 (1981). See also *American Enka Company, a Division of Akzona Incorporated*, 231 NLRB 1335, 1337 (1977); *Wellman Industries, Inc.*, 248 NLRB 325, 328 (1980).